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Report on the use of the commitment authority and request for a subvention to the Residual Special Court for Sierra Leone

Report of the Secretary-General

Summary

The present report is submitted pursuant to General Assembly resolution 72/262 A of 24 December 2017, by which the Assembly, inter alia, authorized the Secretary-General to enter into commitments in an amount not to exceed $2.3 million to supplement the voluntary financial resources of the Residual Special Court for Sierra Leone for the period from 1 January to 31 December 2018 as a bridging financial mechanism, and requested him to report, during the main part of the seventy-third session of the General Assembly, on the use of the commitment authority and on the modalities for the future support of the International Residual Mechanism for Criminal Tribunals to the Residual Special Court. The report addresses the use of the commitment authority and contains a request for a subvention of $2,984,600 to enable the Court to continue to carry out its mandate in 2019.

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I. Introduction

1. Pursuant to article 3 of the Agreement between the United Nations and the Government of Sierra Leone on the establishment of a Residual Special Court for Sierra Leone, the expenses of the Court shall be borne by voluntary contributions from the international community, and the parties and the Oversight Committee may explore alternative means of funding the Court. That funding arrangement has posed serious challenges to the continued sustainability of the Court, thereby threatening the effective implementation of its mandate. Since 2015, the Court has not received sufficient voluntary contributions for its operations and has had to rely on subventions from the regular budget of the United Nations.

2. In his letter dated 25 July 2017 (S/2017/665), the Secretary-General informed the Security Council that there would not be sufficient voluntary contributions for the continuation of the work of the Residual Special Court beyond 2017. He expressed his intention to propose to the General Assembly that the costs of the Court for the biennium 2018-2019 be provided through a subvention under the programme budget.

3. In his reply dated 1 August 2017 (S/2017/666), the President of the Security Council informed the Secretary-General that the members of the Council had taken note of the intention expressed in the letter of 25 July.

4. The Secretary-General submitted a request to the General Assembly for a subvention for the Residual Special Court in the amount of $5,931,800 for the period from 1 January 2018 to 31 December 2019. Having considered the report of the Secretary-General (A/72/384) and the related report of the Advisory Committee on Administrative and Budgetary Questions (A/72/7/Add.20), by its resolution 72/262 A of 24 December 2017, the Assembly authorized the Secretary-General to enter into commitments in an amount not to exceed $2.3 million to supplement the voluntary financial resources of the Court for the period 1 January to 31 December 2018 as a bridging financial mechanism. The Assembly also endorsed the conclusions and recommendations of the Advisory Committee and requested the Secretary-General to ensure that the International Residual Mechanism for Criminal Tribunals continued to provide logistical and administrative support to the Residual Special Court, on a cost -reimbursable basis, as appropriate, without prejudice to the mandate of either entity. The Assembly also encouraged all Member States to provide voluntary support to the Court. In addition, the General Assembly expressed serious concern over the adverse financial situation facing the Court and, in that regard, requested the Secretary-General to redouble his efforts to seek voluntary contributions, including through broadening the donor base and holding regular consultations with the key stakeholders. The Assembly also requested the Secretary-General to report during the main part of the seventy-third session on the use of the commitment authority, on the modalities for future support of the International Residual Mechanism for Criminal Tribunals for the Court, and on the efforts to seek voluntary contributions.

5. At the time of the drafting of the present report, the only contributions received by the Residual Special Court since October 2017 amounted to $14,900. There are currently no additional pledges or prospects for voluntary contributions from Member States, despite the intensified efforts of the Secretary-General, the Government of Sierra Leone, members of the Oversight Committee and the principal officials of the Court to raise voluntary contributions. Therefore, the Court will not have sufficient funds from voluntary contributions to continue its operations in 2019, whereas the Court's requirements for the period from 1 January to 31 December 2019 amount to $2,984,600. It should be noted that the projected expenditures for 2018 in the amount of $2,300,000 do not include expenditures for any possible judicial activities that may arise during the remaining months of 2018.

II. Historical background

6. The Residual Special Court was established by the Agreement between the United Nations and the Government of Sierra Leone on the establishment of a Residual Special Court for Sierra Leone, concluded in August 2010, with the concurrence of the Security Council. The mandate of the Court is to perform essential residual functions of the Special Court for Sierra Leone. The Special Court for Sierra Leone was established by an agreement concluded in 2002 pursuant to Security Council resolution 1315 (2000), in which the Council mandated the Secretary-General to negotiate an agreement with the Government of Sierra Leone to create an independent special court with the primary objective of prosecuting persons who bore the greatest responsibility for the commission of crimes against humanity, war crimes and other serious violations of international humanitarian law, as well as crimes under relevant Sierra Leonean law, committed within the territory of Sierra Leone. The Special Court for Sierra Leone indicted 13 individuals. Three of those indicted have died and one remains at large. The other nine individuals, including Charles Ghankay Taylor, the former President of Liberia, have been convicted and sentenced to terms of imprisonment ranging from 15 to 52 years.

7. After completing its mandate, the Special Court for Sierra Leone closed on 31 December 2013 and passed on its residual functions to the Residual Special Court. Those important and ongoing functions include: supervising the enforcement of sentences; reviewing convictions and acquittals; conducting contempt of court proceedings or referring them to national jurisdictions; providing witness and victim protection and support; maintaining, preserving and managing the archives of the Special Court for Sierra Leone and the archives of the Residual Special Court itself; responding to requests from national authorities for access to evidence and to claims for compensation; providing defence counsel and legal aid for the conduct of proceedings before the Residual Special Court; and preventing double jeopardy by monitoring national proceedings. In addition, the Court has the power to prosecute the remaining fugitive, Johnny Paul Koroma, should he be alive and if his case is not referred to a competent national jurisdiction.

8. The Residual Special Court commenced operations on 1 January 2014. It has an interim seat in The Hague, with a sub-office in Freetown for witness protection and support and the coordination of defence issues. In accordance with article 6 of the Agreement between the United Nations and the Government of Sierra Leone, the present arrangement regarding the location of the Court will remain in effect until such time as the United Nations and the Government of Sierra Leone agree otherwise.

III. Progress to date

A. Structure and systems of the Residual Special Court for Sierra Leone

9. At the fourth plenary meeting of the judges of the Residual Special Court, held from 15 to 17 December 2017, certain amendments to the Rules of Procedure and Evidence were adopted. For example, rules 120 to 122 relating to review proceedings were amended. Those rules set out procedures for the review of judgments, should the convicted person or the Prosecutor wish to present new facts or new evidence, not known at the time of the trial, but which may have been a decisive factor in reaching a particular judgment. Those provisions had not been amended since the inception of the Special Court for Sierra Leone in 2003 and needed to be adapted to the new context and institutional structure of the Residual Special Court, which relies solely

on judges who are on a roster, who are called upon to perform functions only when necessary. The respective roles of the President and the judges were streamlined and clarified in the light of the residual nature of the Court. In addition, a working group of judges provided an update to the plenary meeting on progress made in drafting a code of professional ethics and conduct for the judges.

10. The Residual Special Court also completed consultations on the review of its Rules Governing the Detention of Persons Awaiting Trial or Appeal or in Custody under the Supervision of the Residual Special Court. Those rules are intended to replace the Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Special Court for Sierra Leone or Otherwise Detained on the Authority of the Special Court for Sierra Leone, which were last amended on 14 May 2005. The rules address the specific aspect of supervision by the Residual Special Court of the conditions of sentence enforcement for convicted persons pursuant to article 23 (2) of the Statute of the Residual Special Court. The Court is taking stock of the amended United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), adopted by the General Assembly on 17 December 2015 (see resolution 70/175, annex). The amended Rules are in the process of being finalized and promulgated by the Registrar. That process is expected to be completed in December 2018.

B. Activities of the Residual Special Court

11. The Court remembered the former Prosecutor of the Special Court for Sierra Leone, Desmond da Silva, who passed away on 2 June 2018. Mr. da Silva was the first Deputy Prosecutor at the Special Court for Sierra Leone. He succeeded David M. Crane as Prosecutor in 2005. Among his significant achievements were the successful negotiation of the transfer of Charles Ghankay Taylor to the Special Court for Sierra Leone and playing a key role in arranging for Mr. Taylor's trial in The Hague.

12. The Residual Special Court continues to carry out the ongoing residual functions of the Special Court for Sierra Leone. Those include supporting witness protection, supervising the enforcement of sentences and the monitoring of conditional early release, responding to requests for information and evidence from national prosecuting authorities, and the management and preservation of archives. In addition, the Court conducts ad hoc proceedings from time to time. The following sections provide an overview of those activities.

1. Protection of victims and witnesses

13. Pursuant to article 18 of the Statute of the Residual Special Court, the Witnesses and Victims Protection and Support Office continues to actively monitor and provide support to over 100 witnesses in Sierra Leone, as well as to witnesses located outside Sierra Leone, and maintains updated information on witnesses through regular contact. Elections in Liberia and Sierra Leone in October 2017 and March 2018, respectively, increased security concerns for some witnesses, thus requiring more proactive interventions on their behalf. Since March 2018, a team of civil society and Court staff in Freetown have been monitoring the impact of elections in Sierra Leone and Liberia on the safety and security of witnesses in both countries. In May 2018, a witness expert was hired on a short-term basis to provide leadership and expert services in monitoring the situation of witnesses. In addition, several outreach and witness protection missions were undertaken during the election period. Meanwhile, the Office continues to implement protective measures such as relocation, and to provide welfare and medical assistance, including for surgery, to vulnerable

witnesses, as appropriate. In addition, the Office continues to maintain contact with relevant authorities and agencies that provide support to witnesses.

2. Judicial and administrative proceedings

14. The Residual Special Court continues to hold various judicial and administrative proceedings, including to consider conditional early release applications.

15. Following the granting of his application for conditional early release by the President of the Residual Special Court on 29 May 2017, Allieu Musa Kondewa, the former Initiator and High Priest for the Civil Defence Forces militia, underwent a 10-month training programme on, inter alia, human rights and correct behaviour as a citizen of Sierra Leone. On 13 March 2018, the Registrar applied for a three-month extension to allow Mr. Kondewa to complete his training. After consultation with the Prosecution and the Defence, the President granted the requested extension on 22 March 2018. Following certification by the Registrar of his successful training, on 6 June 2018, Mr. Kondewa reiterated his public apology for his wrongful conduct, acknowledged his guilt and expressed remorse for all the suffering caused. He also urged all Sierra Leoneans to continue to promote peace and reconciliation. On 8 July 2018, he was released to serve the remainder of his sentence in his community, under the supervision of the local police. That was the second time that a war crimes convict of the Special Court for Sierra Leone had been granted supervised conditional early release, subject to strict conditions.

16. The former Director of War for the Civil Defence Forces militia, Moinina Fofana, was the first person convicted by the Special Court for Sierra Leone to be granted conditional early release, in August 2014. He was not released, however, until March 2015, at which point he returned to Sierra Leone to live in the community subject to restrictions until the end of his full 15-year sentence, in May 2018. Mr. Fofana was also the first person convicted of war crimes by the Special Court to complete his sentence. The conditional early release facilitated his reintegration into the community and helped to mitigate the risk of recidivism and reprisals against witnesses.

17. One person indicted by the Special Court for Sierra Leone, Johnny Paul Koroma, has been at large and his status remains unclear. Although it has been indicated during trial testimony he may be deceased, stories circulate periodically that he may still be alive. None of those stories have, however, been substantiated. In September 2017, the Prosecution Legal Adviser/Evidence Officer travelled to Freetown for one week to represent the Prosecutor on special projects relating to her mandate regarding Mr. Koroma. In May 2018, the Prosecutor, Brenda Hollis, travelled to Freetown and met with the newly appointed Attorney General to follow up on matters pertaining to Mr. Koroma.

3. Supervision of sentence enforcement

18. Pursuant to article 25 of its Statute, the Residual Special Court is responsible for supervising the enforcement of sentences for persons convicted by the Special Court for Sierra Leone. With the conditional early release of Mr. Kondewa in July 2018, the Court currently has six convicts in custody, one, Mr. Taylor, in the United Kingdom of Great Britain and Northern Ireland, and five in Rwanda.

19. The Office of the Registrar and the Defence Office continue to maintain close contact with authorities in the United Kingdom and Rwanda regarding sentence enforcement, including in relation to family visits (arranged with assistance from the Residual Special Court), conditions of imprisonment and the provision of legal assistance.

20. The Principal Defender of the Residual Special Court assigned pro bono counsel to Morris Kallon, at his request, and additional pro bono counsel to Mr. Taylor, at his request. In addition, the Principal Defender met with Mr. Taylor in the United Kingdom in April 2018 to address legal matters.

21. Independent monitoring authorities also continue to carry out annual assessments of the conditions of imprisonment of individuals convicted by the Special Court for Sierra Leone. On 19 August 2017, the International Committee of the Red Cross submitted a confidential report on the conditions of imprisonment of convicts in Mpanga Prison, in Rwanda, following an inspection visit there on 23 May 2017. The International Committee of the Red Cross reported that, in general, conditions were satisfactory.

22. With respect to Mr. Fofana, prior to the completion of his full sentence in May 2018 and during the period of his conditional early release, the Defence Office submitted requests concerning his travel to other regions of the country in order to facilitate his livelihood and to address family matters. The Registrar considered those requests and, when conditions were met, issued written authorizations, subject to ongoing supervision. During that period, the outcome of all spot checks conducted to ensure that Mr. Fofana was complying with the conditions imposed upon him was satisfactory.

23. At the request of authorities in the United Kingdom, the Registrar provided clarification and her input into matters raised by Mr. Taylor's counsel regarding family visits and his detention in the United Kingdom. Legal challenges in relation to those issues are anticipated to occur before the end of the 2018, thereby requiring additional funding for associated judicial activities.

4. Assistance to national authorities and State cooperation

24. The Residual Special Court has continued to receive and respond to requests for assistance from national authorities. Since the inception of the Residual Special Court, at least 27 such requests, including 5 since September 2017, have received full responses through the Registry and the Office of the Prosecutor. The requests have been for information on individuals accused of involvement in war-related crimes during the conflicts in Sierra Leone and Liberia, who now reside in the jurisdictions of the requesting authority under asylum or other status.

25. In addition, in September 2017, the Residual Special Court received requests for State cooperation in interviewing five convicts in relation to national proceedings. Those requests involved the taking of testimony of convicts in the custody of the Court face-to-face and via videoconference, as well as having access to certain witnesses and public records. The Court provided full support to the requesting State, consistent with its mandate.

26. On 15 December 2017, on the basis of the submissions of the parties, the President of the Residual Special Court authorized interviews with the convicts who had accepted to testify under conditions acceptable to the requesting State and the Court. The Office of the Registrar facilitated contacts between national authorities and Rwandan authorities in order to organize the interviews. The interviews took place in Rwanda in February 2018, in the presence of the convicts' counsel and the Principal Defender. The national authorities confirmed their satisfaction with the support provided by the Residual Special Court.

27. In addition, the Registry and the Office of the Prosecutor received and responded to requests for information or assistance from researchers engaged in academic and media projects.

5. Maintenance of archives and court management

28. The maintenance of the archives of the Special Court for Sierra Leone and the Residual Special Court is ongoing. The original archives continue to be maintained at the Dutch National Archives in The Hague. Archivists continue to work to complete the archiving of all documents and data of the Special Court for Sierra Leone. Compilation and final review of a comprehensive archive index are expected to be completed by March 2019. The physical archives of the Residual Special Court occupy approximately 600 linear metres of paper records, and the digital archives occupy approximately 13.4 terabytes.

6. Legacy and outreach

29. The preservation of the legacy of the Special Court for Sierra Leone is an important element of the work of the Residual Special Court, which also seeks to contribute to the development of international criminal justice. In that regard, the judges of the Residual Special Court continue to participate in activities to promote the legacy of the Special Court for Sierra Leone and to increase the profile of the Residual Special Court. The judges do so at no cost to the Residual Special Court. Their firm commitment and desire to cement the legacy of the Special Court for Sierra Leone was discussed during the fourth plenary meeting of the judges in December 2017.

30. Since September 2017, the judges of the Residual Special Court have undertaken several outreach activities, including the following:

(a) A presentation on the Special Court for Sierra Leone by Justice Elizabeth Nahamya at a conference of the Commonwealth Magistrates and Judges Association, held in Dar-es-Salaam, Tanzania, in September 2017;

(b) The representation of the Residual Special Court by Justice Emmanuel Roberts and the Principal Defender at a conference on legal aid, held in Tbilisi in September 2017;

(c) Speeches and lectures delivered by Justice Shireen Fisher:

(i) As a guest speaker at the first ceremonial assembly of the association of judges of the Court of Bosnia and Herzegovina in October 2017;

(ii) At the Law Faculty of the National University of Ireland at Maynooth in February 2018;

(d) Speeches and lectures by Justice Teresa Doherty:

(i) At a summit of judges and prosecutors to discuss human trafficking and organized crime, held at the Vatican in October 2017;

(ii) At a colloquium of judges, non-governmental organizations, lawyers and academics convened by the International Commission of Jurists, held in Geneva in November 2017;

(iii) On jurisprudential and other achievements of the Special Court for Sierra Leone, transitional justice, the reinstatement of the rule of law in post-conflict societies and international conventions and treaties and their use and application in the jurisprudence of international criminal courts and tribunals, at Queen's University, in Belfast, United Kingdom, in February 2018;

(iv) On the contribution of women judges, prosecutors and others to the development of international criminal law at a symposium on gender

representation in relation to the judges of international tribunals and courts, sponsored by the University of Oslo in February 2018;

(v) On the application of international conventions to the domestic courts of Georgia and their procedures, at the Winter School of Justice, held in Borjomi, Georgia, in February 2018;

(e) Assistance provided by Justice Andrew Haton and Justice Oagile Dingake to the judiciary of Sierra Leone in organizing training in collaboration with the UK Sierra Leone Pro Bono Network;

(f) Engagement by the President of the Residual Special Court, Justice Renate Winter, with Guatemala and Sri Lanka on child soldiers, and with Guatemala, the Marshall Islands, Palau, Seychelles, Solomon Islands and Sri Lanka on child marriage;

(g) Participation as panellists by Justice Doherty and Prosecutor Hollis at a symposium on women as agents of change in the rule of law, held at the University of South Carolina in February 2018.

31. At no cost to the Residual Special Court, the Prosecutor continues to carry out activities pertaining to prosecutorial matters concerning the legacy of the Special Court for Sierra Leone and promoting the activities of the Residual Special Court. One example of such activities was her attendance at a meeting sponsored by the International Nuremberg Principles Academy.

32. In recognition of their significant contributions to areas such as international justice, court principals were the recipients of awards and honours in 2017 and 2018. President Winter was awarded the Grand Decoration of Honour in Gold with Star for Services to the Republic of Austria. This is one of the highest honours given by the Government of Austria to distinguished nationals who have excelled in their fields. Justice Fisher, Justice Doherty and Prosecutor Hollis were also honoured by having their names included on the Gender Justice Legacy Wall, established by Women's Initiatives for Gender Justice to celebrate and honour those who have contributed to advances in the field of gender justice over the past 125 years. Those awards and honours have helped to raise the global profile of the Residual Special Court.

33. The jurisprudential legacy project of the Appeals Chamber of the Special Court for Sierra Leone has been endorsed by the plenary of judges, and it will be launched in December 2018. It will serve as an invaluable tool for jurists, researchers and the public, enabling them to access the findings of the Special Court for Sierra Leone in one place and to compare findings across multiple cases.

34. In the same vein, the Office of the Registrar carried out its review of the procedural practice of the Special Court over the reporting period with a view to compiling an online case law database. However, the project has been put on hold owing to lack of funding. The Court unsuccessfully approached a number of sponsors to secure financial assistance to move the project forward.

35. The President's fourth annual report covering the operations of the Residual Special Court in 2017 was published and distributed in May 2018.[1]

IV. Current financial situation

36. A breakdown of requirements by component and object of expenditure and funding availability is shown in tables 1 and 2 below.

[1] Available at http://www.rscsl.org/RSCSL-Documents.html.

Table 1
Requirements by component and funding availability
(United States dollars)

Component	*1 January-31 December 2018 (estimated requirements)*[a] *a*	*1 January-30 June 2018 (actual expenditure) b*	*1 July-31 December 2018 (projected expenditure) c*	*1 January-31 December 2018 (estimated expenditure)*[b] *d = (b + c)*	*1 January-31 December 2019 (estimated requirements) e*
Expenditure/requirements					
1. Chambers/judges/judicial	589 700	–	–	–	589 700
2. Office of the Prosecutor	63 000	25 035	37 965	63 000	63 000
3. Registry	2 313 200	1 121 562	1 115 438	2 237 000	2 331 900
Subtotal	**2 965 900**	**1 146 597**	**1 153 403**	**2 300 000**	**2 984 600**
Funds available					
Pledges and contributions				–	
Anticipated pledges				–	
Amount of subvention received				2 300 000	
Subtotal				**2 300 000**	–
Surplus/(shortfall)					**(2 984 600)**

Table 2
Requirements by object of expenditure and funding availability
(United States dollars)

Component	*1 January-31 December 2018 (estimated requirements)*[a] *a*	*1 January-30 June 2018 (actual expenditure) b*	*1 July-31 December 2018 (projected expenditure) c*	*1 January-31 December 2018 (estimated expenditure)*[b] *d = (b + c)*	*1 January-31 December 2019 (estimated requirements) e*
Expenditure/requirements					
Posts	1 444 200	614 276	620 424	1 234 700	1 495 900
Compensation to judges	182 500	39 892	12 908	52 800	179 500
Consultants and experts	31 500	–	31 500	31 500	31 500
Travel	300 600	83 517	32 083	115 600	288 000
Contractual services	588 900	241 400	278 800	520 200	587 700
General operating expenses	400 200	161 133	166 067	327 200	382 000
Supplies and materials	13 000	6 379	6 621	13 000	15 000
Furniture and equipment	5 000	–	5 000	5 000	5 000
Subtotal	**2 965 900**	**1 146 597**	**1 153 403**	**2 300 000**	**2 984 600**
Funds available					
Pledges and contributions	–	–	–	–	–
Anticipated pledges	–	–	–	–	–

Component	1 January-31 December 2018 (estimated requirements)[a]	1 January-30 June 2018 (actual expenditure)	1 July-31 December 2018 (projected expenditure)	1 January-31 December 2018 (estimated expenditure)[b]	1 January-31 December 2019 (estimated requirements)
	a	*b*	*c*	*d = (b + c)*	*e*
Amount of subvention received	–	–	–	2 300 000	–
Subtotal	**–**	**–**	**–**	**2 300 000**	**–**
Surplus/(shortfall)	**–**	**–**	**–**	**–**	**(2 984 600)**

[a] Approved by the Oversight Committee.

[b] The budget for 2019 approved by the Oversight Committee amounts to $2,984,600, consisting of $2,394,900 for non-judicial activities and $589,700 for judicial activities. The projected expenditures for 2018 in the amount of $2,300,000 do not include expenditures for any possible judicial activities that may arise during the remaining months of 2018.

37. The assumptions forming the basis for the budget are derived from the operations of the Residual Special Court. They are subject to the Court continuing to carry out its functions at its interim seat in The Hague, with a sub-office in Freetown to manage functions, including witness and victim protection and support, defence issues and the coordination of matters related to persons convicted by the Special Court for Sierra Leone.

38. The staff composition of the office of the Residual Special Court in The Hague is as follows: one Registrar (D-2); one Prosecution Legal Adviser (P-4); one Legal Officer (P-4) in the Office of the Registrar; one Archiving Officer (P-2); one Office Manager (P-2); and one Associate Legal Officer (P-1). In addition, one position (Local level) is funded through general temporary assistance to provide archiving services. The staff composition of the Court's sub office in Freetown is as follows: one Senior Legal Officer (P-4); one Associate Defence Legal Officer (P-1); three Witness Protection and Support Supervisor/Protection Officers (National Professional Officer); one Administrative Assistant (Local level); and one Cleaner (Local level). The Court relies on short-term consultancies, expert services, interns and pro bono services to supplement its staffing resources, as and when necessary. Annex III to the present report provides details on staffing requirements by category, level and location for 2019.

V. Efficiency measures

39. The Residual Special Court has considered the recommendations of the Advisory Committee on Administrative and Budgetary Questions on the need for the Court to intensify fundraising efforts, broaden its donor base, adopt innovative fundraising strategies and reduce travel cost (see A/72/7/Add.20, paras. 11, 12 and 18); to adopt a more realistic approach to budgeting for judicial activities (ibid., para. 15); to have functions of the Associate Legal Officer (P-1) and the Associate Defence Legal Officer (P-1) be performed by National Professional Officers in each location, to establish alternative staffing arrangements to provide administrative services in lieu of the Office Manager (P-2) and Cleaner (Local level) (ibid., para.17); and to explore possible savings and economies of scale associated with the nationalization of posts and cost-sharing support arrangements with the International Residual Mechanism through co-location in Arusha (ibid., para. 22).

40. In addition to the fundraising activities outlined in section VI below, the Residual Special Court has revised its fundraising strategy by cutting down on fundraising-related travel and making use, for the first time, of its Twitter account and press releases to raise awareness of its financial situation and seek voluntary

contributions. Doing so has broadened the reach of the Court. Adopting a more realistic approach to budgeting for the judicial activities of the residual mechanism remains a challenge owing to the uncertainty surrounding the nature and timing of activities, some of which will arise depending on the actions of those convicted, or if the fugitive, Mr. Koroma, is apprehended. In the light of the significant challenge of mobilizing voluntary resources to meet its obligations under its Statute, the Residual Court has deemed it necessary and in the interest of justice to anticipate the possibility of the occurrence of judicial activities and to be prepared to deal with them as and when they occur.

41. In 2018, the Residual Special Court conducted an assessment to determine the feasibility of nationalizing positions and seeking alternative means of providing cleaning services. The assessment showed that nationalizing the Associate Legal Officer (P-1) and the Office Manager (P-2) positions based in The Hague would result in higher costs than maintaining them at their current professional levels, and outsourcing cleaning services in Freetown would also cost more than maintaining the staff cleaner post at its current Local level. It should be noted that the comparisons between the above-mentioned positions were made at the lowest level of the National Officer category, with the exception of the Office Manager, which was compared against the NO-B level given the level of responsibilities, which include administrative representation of the Registrar, supporting the Residual Special Court in developing the work programme and budget, undertaking personnel activities, and making travel arrangements for the Residual Special Court. While reclassifying the Associate Defence Legal Officer (P-1) based in Freetown to a National Professional Officer position would cost less than keeping it at its current professional level, having considered the full scope of responsibilities of the position, nationalizing the post with a considerable reduction in remuneration would not attract a competent lawyer who would be willing and capable of performing the duties of the post on a full-time basis. Moreover, given that is the only full-time position available to the defence, it would not be in the interest of justice to nationalize the position, as doing so would exacerbate the perception of inequality of arms and bias against the defence.

42. In the previous report of the Secretary-General (A/72/384), it was estimated that the yearly recurring costs of the Residual Special Court would increase by approximately $318,700 if the Court were to relocate to Arusha. With the nationalization of the Associate Legal Officer (P-1) and Office Manager (P-2) positions, the annual recurring cost would increase by $225,465. It is also noted in the report that there was no space to accommodate the staff and archives of the Residual Special Court at the premises of the International Residual Mechanism in Arusha, and that situation has not changed.

43. The Residual Special Court remains committed to increasing efficiency through sharing administrative arrangements and staffing structure. The sub-office of the Court in Freetown is co-located with the National Witness Unit, and the Court's interim seat in The Hague is co-located with and receives administrative and logistical support from the International Residual Mechanism for Criminal Tribunals on a cost-reimbursable basis. Those administrative arrangements are without prejudice to the mandates of the respective entities.

44. With regard to staffing, efficiency measures continue to be taken, with the Registrar being the only senior full-time staff member of the Residual Special Court. The President, the judges (called from the roster as and when needed), the Prosecutor and Principal Defender all work remotely only as necessary and are remunerated on a pro rata basis.

45. The Residual Special Court also relies on short-term contractors, pro bono assistance and interns to supplement its staff resources. The Court has also retained

the expert services of professionals, such as a press officer and a detention adviser, who are called upon to work on an ad hoc basis only as necessary and are remunerated on a pro rata basis. Moreover, the Auditor General of South Africa continues to conduct the annual audit of the Court on a pro bono basis. The 2016 accounts were audited in September 2017. The 2017 accounts will be audited in September 2018 and the audit report will be submitted by the end of October 2018.

46. With regard to travel, it is a challenge to achieve efficiencies in the light of the functions for which travel is required. Examples of such functions include the supervision of certain aspects of the enforcement of sentences and the protection of witnesses. Notwithstanding those challenges, the Court has continued to adopt efficiency measures with regard to travel by combining official missions and performing Court functions in conjunction with third party-sponsored travel.

VI. Fundraising and diplomatic relations

47. The funding situation of the Residual Special Court remains a matter of serious concern for the United Nations, the Government of Sierra Leone, the principals of the Court and the Oversight Committee. During their annual visit to The Hague, in June 2018, at no cost to the Residual Special Court, the Oversight Committee met with staff and briefed them on the challenges of securing voluntary contributions and on the efforts that continued to be made to raise funds.

48. The Secretary-General addressed letters of appeal to all Member States in June 2018 to seek their financial support. The Government of Sierra Leone has also been holding bilateral meetings with Member States to seek financial support for the Residual Special Court.

49. The principals and staff members of the Residual Special Court have undertaken fundraising activities in Brussels, Freetown, New York and The Hague in order to broaden the donor base and garner financial support. The fundraising activities provide an opportunity to brief interlocutors on the important work of the Court and its financial challenges. It is envisaged that over 80 bilateral fundraising activities will be held in 2018.

50. Over the course of 2018, the following meetings have been or will be held:

(a) A diplomatic briefing on behalf of the Residual Special Court, to be hosted by the Embassy of Canada in The Hague on 26 September 2018;

(b) Bilateral meetings in The Hague with the representatives of the following countries: Afghanistan, Algeria, Angola, Argentina, Australia, Austria, Bangladesh, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Cameroon, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Czechia, Democratic Republic of the Congo, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Estonia, Finland, France, Germany, Ghana, Guatemala, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Lebanon, Libya, Lithuania, Luxembourg, Malaysia, Mexico, Morocco, Netherlands, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Russian Federation, Rwanda, Saudi Arabia, Senegal, Slovakia, Slovenia, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, United Republic of Tanzania, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam and Yemen.

51. It is envisaged that bilateral meetings will be held in 2018 in Brussels with representatives of the embassies of the following countries: Belize, Benin, Bhutan,

Botswana, Brunei Darussalam, Burkina Faso, Cambodia, Cabo Verde, Central African Republic, Chad, Comoros, Congo, Djibouti, Equatorial Guinea, Eswatini, Fiji, Gabon, Gambia, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Jamaica, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mongolia, Mozambique, Myanmar, Namibia, Nepal, Niger, Papua New Guinea, Paraguay, Saint Vincent and the Grenadines, Samoa, Sao Tome and P incipe, Seychelles, Sierra Leone, Singapore, Solomon Islands, South Africa, Syrian Arab Republic, Tajikistan, Togo, Trinidad and Tobago, Uganda, Zambia and Zimbabwe.

52. With regard to diplomatic relations, the Registrar, representing the President, attended several meetings and ceremonies on behalf of the Residual Special Court, including the opening ceremony for the 2018 judicial year of the International Criminal Court. The Legal Officer, representing the Registrar, and the Prosecution Legal Adviser, representing the Prosecutor, attended several diplomatic events, including those org nized by Luxembourg, Sweden and the United Kingdom.

53. The elections held in Sierra Leone in March 2018 ushered in a new Government. As a result, in June 2018, the Registrar paid courtesy calls to the President of Sierra Leone, Julius Maada Bio, and other members of the new Government. During the visit, she met with the Minister for Foreign Affairs, the Attorney General/ Minister of Justice, the Secretary to the President, the Inspector General of Police and the Chief Justice, as well as representatives of the country's civil society, in order to brief them on the Court's work and challenges. The Registrar also held meetings with the judges of the Residual Special Court who are based in Sierra Leone.

54. Bilateral meetings have been held with representatives of the following permanent missions in New York: Bolivia (Plurinational State of), China, Egypt, Equatorial Guinea, Ethiopia, France, Germany, India, Japan, Kuwait, Nigeria, Netherlands, Peru, Poland, Sweden, United States and United Kingdom.

55. Despite those efforts, in addition to four rounds of appeals to all 193 Member States, made in 2015, 2016, 2017 and 2018, the adoption of innovative fundraising strategies, and over 300 fundraising meetings and diplomatic briefings since the Residual Special Court commenced operations in 2014, the financial situation of the Court remains dire, with no prospects for future voluntary contributions.

VII. Future financing arrangements for the Residual Special Court

56. The Secretary-General continues to be concerned about the future financing of the Residual Special Court. Since 2015, the Court has not received sufficient voluntary contributions for its operations and has had to rely on subventions from the General Assembly. The Secretary-General concurs with the Advisory Committee on Administrative and Budgetary Questions that there is a compelling need for a sustainable long-term financing solution for the Court (see A/72/7/Add.20, para. 22). The Secretariat has explored alternative options for the financing of the Court, consistent with article 3 of the Agreement between the United Nations and the Government of Sierra Leone on the establishment of a Residual Special Court for Sierra Leone, and with the conclusions and recommendations of the Advisory Committee (see A/67/648, para. 22; A/70/7/Add. 30, para. 21; A/71/613, paras. 22 and 23; and A/72/7/Add.20, paras. 22 and 23), which were endorsed by the General Assembly in its resolutions 67/246, 70/248 A, 71/272 and 72/262 A.

57. The Secretary-General is grateful for the endorsement by the General Assembly of the provision of logistical and administrative support to the Residual Special Court by the International Residual Mechanism for Criminal Tribunals, on a cost-

reimbursable basis, as appropriate and without prejudice to the mandate of the respective entities. On 12 December 2017, the Residual Special Court for Sierra Leone, the International Tribunal for the Former Yugoslavia and the International Residual Mechanism signed an amendment to a memorandum of understanding regarding administrative and technical arrangements between the International Residual Mechanism and the Residual Special Court, pursuant to which, following the closure of the International Tribunal for the Former Yugoslavia, the International Residual Mechanism assumed responsibility on 1 January 2018 for providing administrative support services to the Residual Special Court.

58. The Advisory Committee has previously suggested the possibility of including the Residual Special Court in the financing arrangements for the International Residual Mechanism (see A/67/648, para. 22). There continue to be mixed views, including reservations on the part of some members of the Security Council, regarding the idea of integrating the Court and the International Residual Mechanism. The Secretary-General notes in that regard that the Council is the parent organ of the Mechanism and the intergovernmental organ that provided the mandate for the establishment of the Court.

59. The Secretariat will continue to assess the potential for achieving greater efficiencies and possible savings and economies of scale, including through closer association between the Residual Special Court and the International Residual Mechanism, as appropriate and without prejudice to the mandate and identity of either institution, which would not amount to a merger of the two institutions. The Secretary-General continues to believe, as stated in the report to the Security Council on the administrative and budgetary aspects of the options for possible locations for the archives of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and the seat of the residual mechanism(s) for the Tribunals (S/2009/258), that there would be a certain logic, and possibly economies of scale, in leaving the door open for residual mechanisms to be attached to one common administrative hub at some point in the future.

VIII. End-of-service liabilities

60. In the event that the required funding for 2019 is not received, extension of contracts for staff would not be possible, and that would result in end-of-service liability payments due to staff. Those liabilities include staff entitlements and benefits payable upon separation, amounting to approximately $240,000.

61. The judges, Prosecutor and Principal Defender are not entitled to separation costs. However, the Court may incur liability for any outstanding commitments at the time of closure.

62. Additional liabilities may arise from the discontinuation of witness protection and support and of sentence enforcement and supervision activities, as well as from outstanding obligations to vendors and contractors.

IX. Conclusion and recommendations

63. **The Residual Special Court has used the commitment authority judiciously and, on the basis of current projections and expenditure thus far, it anticipates that the full amount of the $2.3 million in commitment authority received in 2018 would be used and reported in the context of the performance report on the programme budget for the biennium 2018-2019.**

64. **The Secretariat considers that there are no additional alternative options to explore in respect of future financing arrangements for the Residual Special Court. In the light of consultations with members of the Security Council and the minimal prospects for voluntary contributions in the future, the alternative financing arrangement that would place the Court on a secure financing basis would be funding from the United Nations and the provision of logistical and administrative support to the Court by the International Residual Mechanism for Criminal Tribunals.**

65. **Given the lack of adequate and sustained voluntary contributions for the Residual Special Court to fulfil its mandate, the Secretary-General requests the General Assembly:**

(a) **To take note of the report of the Secretary-General;**

(b) **To approve a subvention in the amount of $2,984,600 ($2,394,900 for non-judicial activities and $589,700 for judicial activities) for the period from 1 January to 31 December 2019 for the Residual Special Court for Sierra Leone, with the understanding that any voluntary contributions received would reduce the utilization of the funding provided by the United Nations, which would be reported in the performance reports on the programme budget for the biennium 2018-2019;**

(c) **To appropriate an amount of $2,984,600 as a subvention to the Residual Special Court for Sierra Leone under section 8, Legal affairs, of the proposed programme budget for the biennium 2018-2019.**

Annex I

Funds available for the Residual Special Court for Sierra Leone and actual expenditure as at 30 June 2018

A. Income as at 30 June 2018

(United States dollars)

Cash balance brought forward as at 1 January 2018	–
Contributions received from 1 January to 30 June 2018	–
Contributions anticipated and pledges, 1 July to 31 December 2018	–
Amount of subvention received	2 300 000
Total	**2 300 000**

B. Expenditure as at 30 June 2018

(United States dollars)

	Disbursement (a)	*Obligation* (b)	*Total expenditure* (c) = (a) + (b)
January	160 543	–	160 543
February	131 706	–	131 706
March	190 985	–	190 985
April	152 684	21 700	174 384
May	232 311	21 400	253 711
June	208 007	27 261	235 268
July	–	–	–
August	–	–	–
September	–	–	–
October	–	–	–
November	–	–	–
December	–	–	–
Total	**1 076 236**	**70 361**	**1 146 597**

Annex II

Requirements by object of expenditure: non-judicial and judicial proceedings

Object of expenditure	*Non-judicial* *(a)*	*Judicial* *(b)*	*Total* *(c)=(a)+(b)*
Posts	1 335 900	160 000	1 495 900
Compensation to judges	49 800	129 700	179 500
Consultants and experts	31 500	–	31 500
Travel	110 000	178 000	288 000
Contractual services	537 700	50 000	587 700
General operating expenses	310 000	72 000	382 000
Supplies and materials	15 000	–	15 000
Furniture and equipment	5 000	–	5 000
Total	**2 394 900**	**589 700**	**2 984 600**

Annex III

Staffing requirements

A. Staffing requirements for the Residual Special Court in 2019 on a full-time basis

	Professional category and above							*National staff*			
Location	*USG*	*D-2*	*P-4*	*P-3*	*P-2*	*P-1*	*Subtotal*	*National Officer*	*Local level*	*Subtotal*	*Total*
The Hague	–	1	2	–	2	1	6	–	–	–	6
Freetown	–	–	1	–	–	1	2	3	2	5	7
Total	**–**	**1**	**3**	**–**	**2**	**2**	**8**	**3**	**2**	**5**	**13**

Note: In addition to the 13 full-time positions, 1 position funded from general temporary assistance (Local level) would provide additional archiving support.

B. Staffing requirements for the Residual Special Court in 2019 by location and component (sourced from the roster if required for judicial activity)

	Professional category and above							*National staff*			
Location and component	*USG*	*D-2*	*P-4*	*P-3*	*P-2*	*P-1*	*Subtotal*	*National Officer*	*Local level*	*Subtotal*	*Total*
The Hague											
Judicial	3	–	2	1	–	–	6	–	5	5	11
Non-judicial	2[a]	–	–	–	–	–	2	–	–	–	2
Total	**5**	**–**	**2**	**1**	**–**	**–**	**8**	**–**	**5**	**5**	**13**

[a] It is expected that the President and Prosecutor will be required for judicial activity, as necessary.